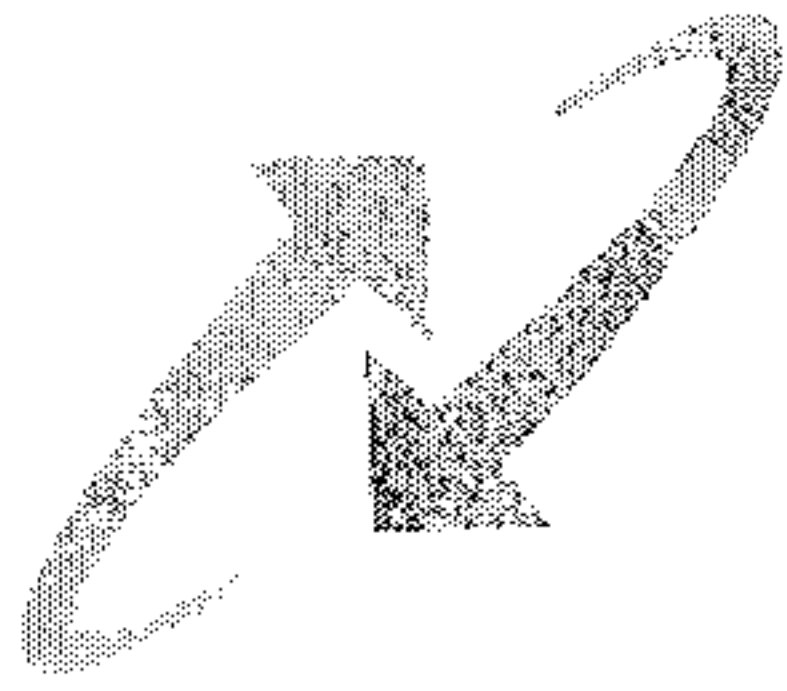


MOST IMMEDIATE/COURT CASE



BHARAT SANCHAR NIGAM LIMITED
[A Government of India Enterprise]
CORPORATE OFFICE
PERSONNEL-II SECTION

Bharat Sanchar Bhawan, 4th Floor, Janpath, New Delhi - 110 001.

No.15-87/2010-Pers.II

Dated:- October, 5 2011

To
All Heads of Telecom Circles/ Metro Districts / Maintenance Regions/ Projects,
All Heads of Telecom Stores / BRBRAITT / ALTTC/ Administrative Units,
Bharat Sanchar Nigam Ltd.


Sub: OA No.686/CH of2010 filed by Shri Santosh Kumar, JTO Vs BSNL & Others
in Hon'ble CAT, Chandigarh Bench.

Sir,

I am directed to enclose the Judgement dt.8.9.2011 of the Hon'ble CAT, Chandigarh Bench in the subject case which was filed by Shri Santosh Kumar with a prayer for filling the post of Sub-Divisional Engineer keeping in view the professional technical qualification and from JTOs as per their seniority rank obtained in 'All India Competitive Examination' for recruitment on the basis of basic qualification as B.E/B.Tech (and not to hold any competitive examination for the same), for information please.

2. It is requested that if needed, the above judgement may be quoted for defending the cases on behalf of BSNL filed for similar issue, and the same may also be brought to the notice of the Hon'ble Tribunals/Courts in respect of similar ongoing cases, if any.

Yours faithfully,


(V.K. SINHA)

Asst. General Manager (Pers.II)

Tel.No.011-23037191; Fax No.011-23734156

Encl: As above.

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 686/CH/2010.

Chandigarh: this 8th day of September, 2011.

**HON'BLE MRS. SHYAMA DOGRA, MEMBER (J).
HON'BLE MRS. PROMILLA ISSAR, MEMBER (A).**

Santosh Kumar, JTO
Working in BSNL office at Chandigarh
Resident of House no. 1546, Sector 34-D
Chandigarh.

.....Applicant.

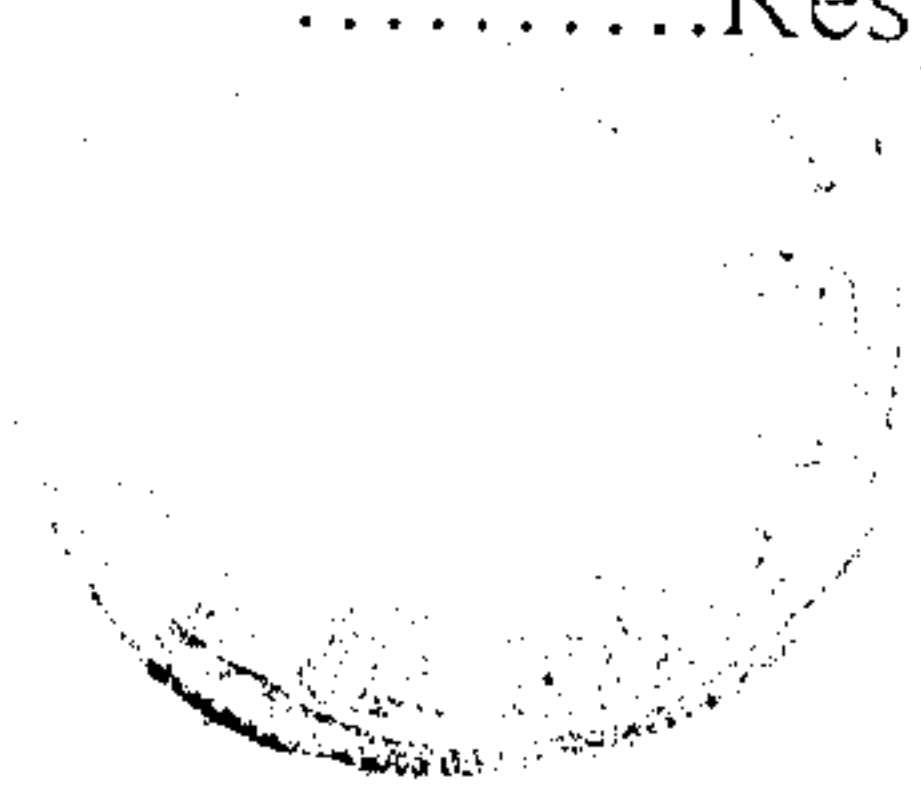
(By: Shri P.N. Arora, Advocate)

Versus

CMD, Bharat Sanchar Nigam Limited
(A Government of India Enterprise) having its registered office
at Bharat Sanchar Bhawan, H.C. Mathur Lane,
New Delhi.

.....Respondents.

(By: Shri Arvind Rajotia, Advocate)



ORDER

(By: Hon'ble Mrs. Promilla Issar, Member (A))

The applicant has filed this OA praying for the following reliefs:-

Promilla

“That the applicant seeks relief that the holding of any competitive examination for promotion to the post of Sub Divisional Engineer is bad as the applicant has already qualified All India Examination where basic qualification is B.E./B.Tech.

With a further direction to the respondent for filling the post of Sub-Divisional Engineer by keeping in view the professional technical qualification and from JTO as per their seniority rank held in ‘All India Competitive Examination’ for recruitment on the basis of basic qualification as B.E./B. Tech.”

2. The respondents have filed a reply in which they have stated that promotions to the cadre of SDE (T) are made by seniority-cum-fitness for 75% posts and by Limited Departmental Competitive Examination for 25% posts. Thereafter, this percentage has been amended to 67% and 33% in place of 75% and 25% respectively. They have further stated that JTO's constitute a Circle cadre and after an All India Examination, the merit therein is considered only for Circle allotment and thereafter the seniority is determined as per rules from time to time. At present the educational qualification prescribed for direct recruitment and promotion is as follows:-

“B.E/B.Tech is the minimum educational qualification prescribed for the direct recruitment whereas the candidates having BSc. (with Physics & Maths) or 3 year diploma in certain branch of Engineering and having 10 years of regular service (which has been reduced to 7 years as per the amendment dated 12.10.2009) are eligible for promotion to the post of JTO under 35% & 15% departmental quota on the basis of a Limited Departmental Competitive Examination.”

Promotion to the All India Cadre of SDE (T) is done as per Recruitment Rules of 2002 on the basis of a combined seniority list of all the Circles on



all India basis. They have stated that they have taken action strictly as per rules for filling up the post of SDE (T).

3. The applicant has filed a rejoinder generally reiterating the averments made in the OA.

4. We have heard the learned counsel for the parties and perused the records of the case.

5. On a detailed consideration of the matter, we find that the prayer of the applicant is very vague. He has not challenged the rules for promotion to the post of SDE (T) and he has also not made any averment to establish that the respondents have taken any action in violation of these rules. The applicant has merely prayed that the competitive examination for promotion to the post of SDE (T) is bad for a person who has already qualified the All India Examination where the basic qualification is B.E./B.Tech. The applicant has failed to appreciate that the all India Examination is for JTO's as direct recruits, whereas the post of SDE (T) is to be filled up through promotion wherein departmental examination has been laid down in the rules. The applicant cannot wish away this provision and demand promotion on the basis of his educational qualification alone, since that would not be as per the provisions of the rules. In fact, without challenging the rules, the applicant is praying for a benefit which is not available to him under the rules. Therefore, we find that he has failed to make out a case in his favour and has been unable to point out any illegal or invalid action of the respondents which is violation of the rules.



6. Consequently, in the totality of the facts and circumstances of this case, this OA has been found to be devoid of merit and the same is accordingly dismissed with no order as to costs.

~~(PROMILLA ISSAR)~~
MEMBER (A)

(SHYAMA DOGRA)
MEMBER (J)

Dated: 8.9.2011.

'ms'

Certified True Copy प्रमाणित सत्य प्रतिलिपि
अनुभाग अधिकारी (न्याय) / Section Officer (Judl.)
केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
चण्डीगढ़ पीठ / Chandigarh Bench
चण्डीगढ़ / Chandigarh